

**TENNESSEE DEPARTMENT OF REVENUE  
LETTER RULING # 04-36**

**WARNING**

**Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.**

**SUBJECT**

Application of the sales tax exemption for certain vehicles used in interstate commerce to a truck washing business.

**SCOPE**

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the department by the taxpayer. The rulings herein are binding upon the Department and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time. Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a revocation of the ruling must inure to the taxpayer's detriment.

**FACTS**

[THE TAXPAYER] operates truck washing facilities. It anticipates expanding its business to Tennessee in [DATE] and is currently in the process of constructing a non-coin operated, employee staffed truck washing facility in Tennessee, where washing and cleaning services will be performed on motor vehicles and trailers used in interstate commerce.

## QUESTION

Does the sales and use tax exemption in Tenn. Code Ann. §67-6-331 for the transfer of certain motor vehicles used in interstate commerce apply to truck washing services performed on vehicles meeting the exemption criteria under §67-6-331?

## RULING

No. The sales and use tax exemption for the transfer of certain motor vehicles used in interstate commerce does not apply to truck washing services.

## ANALYSIS

Tenn. Code Ann. §67-6-331 provides an exemption from sales and use tax for:

the transfer, by any dealer in personal property, of motor vehicles with a gross vehicle weight rating (GVWR) of a class three (3) or above as defined in §55-4-113 and trailers, semi-trailers and pole-trailers as defined in §§55-1-105 and 55-4-113 which shall be used to transport passengers or cargo principally in interstate or foreign commerce by a carrier holding common or contract operating authority...

The question is whether this exemption would apply to truck washing services which clean the vehicles exempted in §67-6-331. Tenn. Code Ann. §67-6-205 makes the laundering or dry cleaning of any kind of tangible personal property, with the exception of certain coin-operated facilities, subject to sales tax. Therefore, unless an exemption applies, the truck washing services are subject to sales tax.

The problem with applying the Tenn. Code Ann. §67-6-331 exemption to the sales tax on cleaning services is that the exemption only applies when there is a “transfer” of a qualified vehicle. Although “transfer” is not defined in the statute, it is typically defined to mean “any mode of disposing of or parting with an asset or an interest in an asset, including the payment of money, release, lease or creation of a lien or other encumbrance.” BLACK’S LAW DICTIONARY (7<sup>th</sup> ed. 1999). When a vehicle is washed or cleaned, there is no disposal of the vehicle, nor is there a parting between the owner and the vehicle. Rather, the vehicle is cleaned and immediately returned to its owner. No transfer occurs. Furthermore, the truck washing facilities are providing a service; the statute does not provide an exemption for services.

A similar situation occurred in *Serodino, Inc. v. Woods*, 568 S.W.2d 610 (Tenn. 1978), where a taxpayer sought a refund of sales taxes paid for repairs performed on barges used in interstate commerce. The Court found that an exemption from sales and use tax for the purchase of equipment used in interstate commerce did not apply to repair or renewal services. Specifically, the Court found that neither the repair nor the renewal of a barge was equivalent to a sale or transfer.

In this situation, the washing of a vehicle used in interstate commerce would not constitute a transfer or a sale of the vehicle; therefore, the washing services would not be exempt from sales tax.

Deborah A. Toon  
Tax Counsel

Approved: Loren L. Chumley  
Commissioner of Revenue

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